

APPLICANT(S): FRISCH, Mordechai et al.
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REMARKS

The present response is intended to be fully responsive to all points of objection and/or rejection raised by the Examiner and is believed to place the application in condition for allowance. Applicants assert that the present invention is new, non-obvious and useful. Prompt consideration and allowance of the claims is respectfully requested.

Status of Claims

Claims 1, 3, 4, 6, 9, 13, 31, 32, 34, 37 and 40-48 are pending. Claims 9 and 45 have been withdrawn. Claims 1, 3, 4, 6, 13, 31, 32, 34, 37, 40-44 and 46-48 have been rejected.

Claims 1 and 31 have been amended herein. Applicants assert that the amendments to claims 1 and 31 add no new matter.

Restriction and Election Requirements

In the Office Action, the Examiner required affirmation of a telephone election of the following allegedly patentably distinct species of fastener: (1) a heat sensitive filament; (2) a magnet; and (3) a degradable filament. According to the Examiner, the species are independent or distinct because they do not overlap in scope, are mutually exclusive and are not obvious variants of each other based on the current record.

Applicants elected with traverse to prosecute the degradable filament species, but argued that the above-listed three separate species of fasteners is in fact two separate species of fastener, since "the heat sensitive filament" and "the degradable filament" are not mutually exclusive species and in fact are members of a single species, because the fastener may be a filament that is sensitive or degradable as a result of the application of heat. The Examiner was not persuaded, stating that species (3) refers to "a degradable filament or glue" and does not overlap with species (1). The Examiner also said that claim 45 is directed to a non-elected species and is withdrawn.

Following the interview with the Examiner on December 9, 2011, Applicants believe that the claims as amended herein are now in condition for allowance. Accordingly, Applicants respectfully request rejoinder of the claims withdrawn as directed to a non-elected

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species, in view of the fact that these claims are linked with the claims directed to the elected species.

Examiner Interview

The undersigned attorney for Applicants thanks the Examiner for the courtesies extended during a telephone call on December 9, 2011 during which Applicants discussed ways to overcome the Section 112, sixth paragraph rejection. Agreement was reached between the Examiner and Applicants with regard to amendments to claims 1 and 31 that would overcome the Section 112, sixth paragraph rejection and result in allowance of the claims, and Applicants have herein made the agreed-upon amendments to the claims.

CLAIM REJECTIONS

35 U.S.C. § 112 Rejections

In the final Office Action, the Examiner rejected claims 1 and 31 (and all claims dependent thereon) under 35 U.S.C. § 112, sixth paragraph, because the claims are in “means-plus function” format but are not supported by sufficient structure, material or acts for achieving the specified function. Applicants respectfully traverse this rejection in view of the remarks that follow.

In a telephone call on December 9, 2011, the undersigned attorney for Applicants and the Examiner agreed on amendments to claims 1 and 31 that would overcome the Section 112, sixth paragraph rejection. Specifically, Applicants suggested and that Examiner agreed that amendment of the clause “means for detaching the first part and the second part during the passage of said device through said gastrointestinal tract” to “said fastener configured to detach the first part and the second part during the passage of said device through said gastrointestinal tract” would overcome this rejection and result in allowance of the claims.

Accordingly, Applicants have herein made the agreed-upon amendments to the claims. In view of the foregoing, Applicants assert that amended independent claims 1 and 31 are now allowable. Claims 4, 6, 9, 13, 32, 34, 37 and 40-48 (including withdrawn claims 9 and 45) depend, directly or indirectly, from one of amended independent claims 1 and 31 and therefore include all the limitations of that claim. Therefore, Applicants respectfully assert that claims 3, 4, 6, 9, 13, 32, 34, 37 and 40-48 are likewise allowable. Accordingly,

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Applicants respectfully request that the Examiner withdraw the rejection to amended independent claims 1 and 31 and to claims 3, 4, 6, 9, 13, 32, 34, 37 and 40-48 dependent thereon.

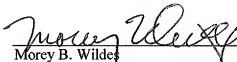
Conclusion

In view of the foregoing amendments and remarks, Applicants assert that the pending claims are allowable.

Should the Examiner have any question or comment as to the form, content or entry of this Amendment, the Examiner is requested to contact the undersigned at the telephone number below. Similarly, if there are any further issues yet to be resolved to advance the prosecution of this application to issue, the Examiner is requested to telephone the undersigned counsel.

Please charge any fees associated with this paper to deposit account No. 50-3355.

Respectfully submitted,


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